

THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

THE HON'BLE SRI JUSTICE G. SHYAM PRASAD

WRIT APPEAL No. 1404 of 2016

JUDGMENT: *(Per VRS,J)*

As against an order of the learned single Judge refusing to stay an order of recovery pending disposal of a writ petition, the workman has come up with the above writ appeal.

2. Heard Mr. A.K.Jayaprakash Rao, learned counsel for the appellant. Mr. Aravala Rama Rao, learned standing counsel for A. P. State Road Transport Corporation, takes notice for the respondents.

3. Pursuant to disciplinary proceedings initiated against the appellant, he was imposed with a penalty of removal from service by the original authority. The order of removal from service was confirmed by the appellate authority. But, the reviewing authority, namely, the Regional Manager, passed an order, which is self explanatory and, hence, it is extracted as follows:

“I have reviewed the case. Party denied all charges stating that he has not stolen the empty bus pass book, he had not used un-authorised persons, Forensick lab is private one and primarily record clerk or office Superintendent failed to take precautions. His defence is not totally correct. There were sufficient evidences for his involvement in the offence, particularly statement of the passenger carrying pass and also contents of report of the station House Officer. On detailed review of records it is found that police trial case is

still pending in the Hon'ble Court at Palamaner. At this juncture it is proposed to reinstate him in to the service to avoid future litigations. Hence reinstated him in to service of the corporation subject to the following terms and conditions.

- 1. Sri K.Rajasekhar, E.504537, Ex-Conductor of Palamaner depot is hereby reinstated into the service of the Corporation and posted to CHITTOOR-2 depot.*
- 2. As a measure of punishment his pay shall be reduced by one incremental stage with cumulative effect besides recovering estimated cost of passes as ordered in removal proceedings issued by the Depot Manager, Palamaner depot.*
- 3. He has to pay fresh Security Deposit as per the rules in force and he must be in possession of valid Conductor licence by the time of reporting at new station.*
- 4. He has to pay amounts, if withdrawn towards settlement dues at the time of reinstatement.*
- 5. The period from the date of removal from service to till he reports for duty at new station shall be treated as Not on duty for the purpose of Gratuity, Increments and leaves."*

4. Aggrieved by the offending portions of the order, relating to the imposition of a lesser penalty and the order of recovery, the workman filed a writ petition and sought a stay of the order of recovery. The learned Judge, even while admitting the writ petition, rejected the prayer for stay, forcing the workman to come up with the above appeal.

5. It appears that the take home pay of the workman is Rs.19,210/- The gross salary of the appellant appears to be a little over Rs.30,000/-

6. The portion of the order of the reviewing authority, which we have extracted above, shows that the finding of guilt, in respect of certain serious charges, has been sustained by the reviewing authority, but a lenient view has been taken. The very reinstatement of the workman is subject to the condition that the cost is recovered from the salary of the workman. Therefore, technically, the learned Judge was correct in refusing to stay the recovery, since the workman, who is in receipt of a concession, in the form reinstatement, cannot seek even a stay of recovery.

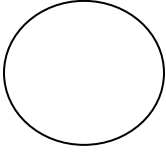
7. However, the fact remains that the take home pay of the workman is only Rs.19,210/-. Therefore, taking into account the above, the Writ Appeal is partly allowed, modifying the order of the learned Judge, and directing the Management not to recover more than a sum of Rs.3,000/- per month. But, in the event of the workman succeeding in the writ petition, it is needless to say that the amount recovered should be refunded.

Consequently, miscellaneous petitions if any pending in the writ appeal shall stand dismissed. No order as to costs.

V. RAMASUBRAMANIAN, J

G. SHYAM PRASAD, J

21st December, 2016
cbs



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Writ Appeal No.1404 of 2016
(partly allowed)

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